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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/562,588

05/30/2006

Young-Man Park

B-5847PCT 623128-5

6123

7590 09/30/2008  
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5670 Wilshire Boulevard Suite 2100  
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EXAMINER

TREYGER, ILYA Y

ART UNIT

PAPER NUMBER

3761

MAIL DATE

DELIVERY MODE

09/30/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                    |  |
|------------------------------|--------------------------------------|------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/562,588 | <b>Applicant(s)</b><br>PARK ET AL. |  |
|                              | <b>Examiner</b><br>ILYA Y. TREYGER   | <b>Art Unit</b><br>3761            |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 1 and 6 are amended.
2. Rejection under 35 U.S.C. 112, first paragraph is withdrawn based on Applicant's amendment.
3. Claims 1-9 of US are examined on the merits.

### ***Response to Arguments***

4. Applicant's arguments filed 06/19/2008 have been fully considered but they are not persuasive:

Applicants argue that the fastening stickers of Noriyuki, on the other hand, are formed of adhesive tape that cannot be peeled off once it has adhered to the outer surface of the back sheet.

However, any material article which has formerly been attached, can be detached.

Applicants further argue that the fastening stickers of Noriyuki comprise a tape-like member with one edge connected to a rolling sheet and a central portion that is folded several times, and therefore cannot be separated completely from the main body of the diaper.

However, Applicants set forth the manner in which the claimed fastener operates. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. See MPEP § 2114. In the instant case, Noriyuki discloses a tape-like fastener which is a plane fastener 5, 5' (Abstract, line 10; Figs. 2-10). As such, the instantly claimed fastener is unpatentable over the cited prior art.

***Claim Rejections - 35 USC § 102***

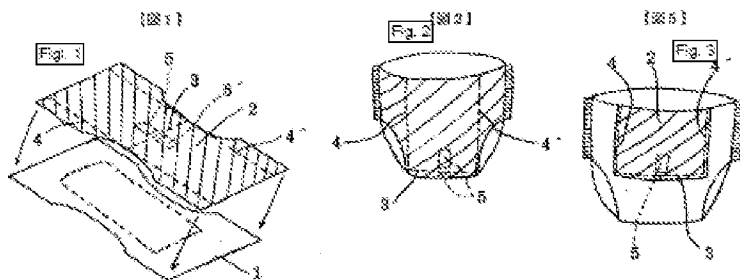
5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

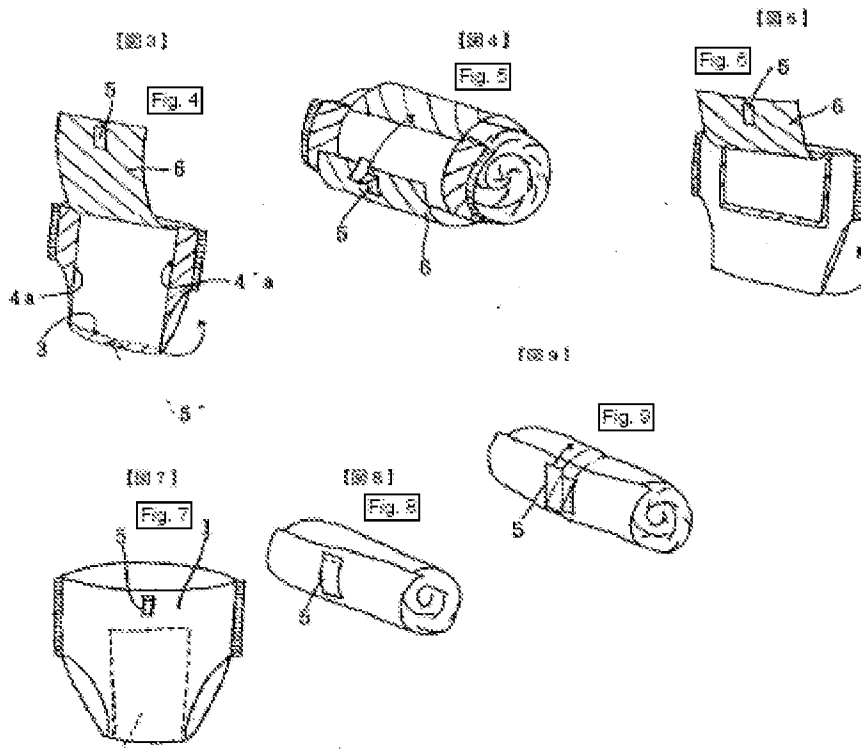
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 11-076296.

7. In Re claim 1, JP 11-076296 discloses the diaper-like absorbent article comprising:  
an absorbent core positioned between a liquid impermeable back sheet and a liquid permeable top sheet; the absorbent article comprises the fastening sticker 5 (plane fastener) comprising the perforation in the width direction and attached to the outer surface of the article, such as a sheet-like member fully capable of being re-stuck to and re-peeled off from the outer surface of the back sheet and separable completely from the main body of the article; and wherein the article has a front body side and a back body side formed by folding at the longitudinal middle point of the main body (See Abstract, ln. 4-15; Figs. 1-9).



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8. In Re claim 2, JP 11-076296 discloses the absorbent article wherein the fastening sticker 5 is fastened to the front or back body side (See Figs. 5 and 7).

9. In Re claim 9, JP 11-076296 discloses the absorbent article wherein the fastening sticker 5 is attached to the product package (See Figs. 1-9).

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

13. Claims 3, 5, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 11-076296 in view of Franco et al. (200610084935).

14. In Re claim 3, JP 11-076296 discloses the claimed invention discussed above, but does not expressly disclose the article wherein the fastening sticker has a design on its surface.

Franco refers to generally conventional use of the fastening sticker colored and decorated what reads on having design on its surface (P. 2, [0020], ln. 5-10).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the absorbent article of JP 11-076296 with the with

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the fastening sticker having design on its surface, as motivated by Franco, because such modification would improve the attractiveness of the product.

15. In Re claim 5, JP 11-076296 in view of Franco disclose the claimed invention discussed above, but does not expressly disclose the article wherein the design of the fastening sticker is relating to the pattern of a design on the outer surface of the main body of the article.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the fastening sticker of JP 11-076296 with the design of the fastening sticker is relating to the pattern of a design on the outer surface of the main body of the article since it is a generally conventional way to make the sticker relatively invisible.

16. In Re claim 8, JP 11-076296 discloses the claimed invention discussed above, but does not expressly disclose the article having a plurality of such fastening stickers.

Franco states the conventionality of using more than one stickers (See P. 2, [0020], ln. 8).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the absorbent article of JP 11-076296 with the plurality of stickers, since making singular part plural is obvious. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8

17. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 11-076296 in view of Franco et al. (US 2006/0084935), as applied to claim 3 above, and further in view of Olson et al. (US 6,297,424).

JP 11-076296 in view of Franco disclose the claimed invention discussed above, but do not expressly disclose the absorbent article wherein the design is aiming the intellectual education of an infant.

Olson teaches the absorbent article wherein the design is aiming the intellectual education of an infant (See Fig. 1).

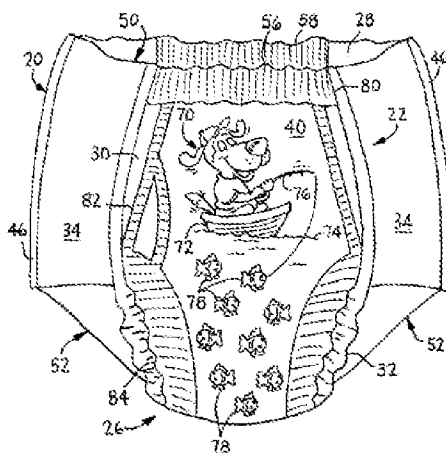


FIG. 1

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the absorbent article of JP 11-076296/ Franco with the design aiming the intellectual education of an infant, as taught by Olson, because such modification would provide the product with the educational features.

18. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 11-076296 in view of Franco et al. (US 2006/0084935), as applied to claim 3 above, and further in view of JP 05-319718.



JP 11-076296 and Franco disclose the claimed invention discussed above, but do not expressly disclose the article wherein the part of the fastening sticker on which the design is drawn or any other portion thereof is separable from the base portion of the sticker.

JP 05-319718 teaches the absorbent article comprising the fastening sticker wherein the portion 8 of it fully capable of having a design separable from the base portion 7 (See Abstract, ln. 12-18; Fig.).



It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the absorbent article of JP 11-076296/ Franco with the fastening sticker having removable part, as taught by JP 05-319718, because such modification would let the user to change educational designs.

19. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 11-076296 in view of Franco et al. (US 2006/0084935)

JP 11-076296 discloses the claimed invention discussed above but does not expressly disclose the fastening sticker has a stretchable sheet material in its middle portion and that the sheet-like member capable of being re-stuck and re-peeled off and separable completely from the main body of the article is connected to opposite end portions of the stretchable sheet material.

Franco teaches the elastic diaper components that vary according to the kind of diaper (P. 5, [0059], ln. 1-5) what means they are stretchable and capable of being re-stuck and re-peeled off and fully capable of being separable completely.

***Conclusion***

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ILYA Y. TREYGER whose telephone number is (571)270-3217. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ilya Treyger/  
Examiner  
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/Tatyana Zalukaeva/  
Supervisory Patent Examiner, Art Unit 3761